

ILLINOIS STATE POLICE MERIT BOARD
OF THE STATE OF ILLINOIS

IN RE THE MATTER OF:

TROOPER MARCO A. PRADO
I.D. #6228


)
)
) Illinois State Police
) Merit Board No. 13-3
)
)

ORDER

THIS CAUSE comes before the Merit Board on a Complaint filed by Hiram Grau, Director of the Illinois State Police, following a full hearing before duly appointed Merit Board Hearing Officer Terry C. Chiganos.

The Merit Board, having reviewed the testimony and the evidence submitted, the charges filed, the Report of Hearing Officer Chiganos and the Briefs of Counsel, does hereby adopt the Findings of Fact and Conclusions of Law of Hearing Officer Chiganos and finds Trooper Prado is guilty of Counts I, III, IV, V, VI and VII. The Merit Board finds the conduct of Trooper Prado to be egregious, intentional, intolerable, and a discredit to the Department. Furthermore, the Board finds the conduct of Trooper Prado on September 9, 2012, is such a substantial shortcoming that it renders continued employment with the Illinois State Police detrimental to the work and image of the Illinois State Police.

The Merit Board considered the mitigating evidence presented at the hearing including, but not limited to, Trooper Prado's remorse, his counseling efforts and agreement to continue counseling if ordered. The Merit Board has also considered the fact that Trooper Prado's tenure with the Illinois State Police has been brief. Furthermore, the Merit Board noted the extraordinary patience of Chicago Police Officer Austin in the face of Trooper Prado's conduct.

The Merit Board finds the evidence offered in mitigation does not overcome the evidence which forms the basis for discipline. The evidence presented at the hearing shows such a serious breach

of integrity such that Trooper Prado has forfeited any right he had to employment as a sworn officer with the Illinois State Police.

The unanimous decision of the Board is to terminate Trooper Prado from employment with the Illinois State Police.

Dated this 17 day of October, 2014.



Arthur J. Smith, Sr.
Chairman
Illinois State Police Merit Board

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**ILLINOIS STATE POLICE MERIT BOARD
OF THE STATE OF ILLINOIS**

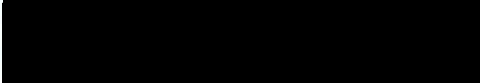
AUG 21 2014

**ILLINOIS STATE POLICE
MERIT BOARD**

In Re the Matter Of:

TROOPER MARCO A. PRADO

I.D. #6228



**Illinois State Police
Merit Board No. 13-3**

REPORT

Appearance for the Petitioner:

Mr. Thor Inouye, Assistant Attorney General
Office of the Illinois Attorney General
100 W. Randolph Street
Chicago, Illinois 60601

Appearance for the Respondent:

Mr. Jerome F. Marconi
Attorney at Law
555 W. Jackson St., Suite 700
Chicago, Illinois 60661

Hearing Officer

Terry C. Chiganos
Attorney at Law
1001 Warrenville Road, #500
Lisle, Illinois 60532

INTRODUCTION

The hearing in the afore-captioned case was held on February 28, 2014 in the Office of the Illinois Attorney General 100 W. Randolph, Chicago, Illinois before the undersigned Hearing Officer duly appointed by the Illinois State Police Merit Board. The matter came on for hearing pursuant to a timely request for hearing filed by the Respondent to contest alleged violations of the Rules of Conduct (Hearing Officer Exhibit #2) and as specifically charged in the seven (7) count Complaint (Hearing Officer Exhibit #1) both attached hereto and made a part of the record.

The Petitioner seeks to terminate Trooper Marco A. Prado for his alleged conduct on September 9, 2012, based on a traffic stop of the Respondent Trooper Prado on the skyway toll road by a Chicago Police Officer.

EXHIBITS

All of the exhibits introduced at the Hearing are described as follows:

Hearing Officer Exhibit #1:	Complaint
Hearing Officer Exhibit #2:	Illinois State Police Rules of Conduct
Petitioner's Exhibit #1:	Audio/videotape of 9/9/2012
Petitioner's Exhibit #2:	Complaint filed by Chicago Police Officer Austin
Petitioner's Exhibit #3:	Transcript of audio of 9/9/12 tape
Petitioner's Exhibit #4:	Audio tape of Administrative Interview – Trooper Prado
Petitioner's Exhibit #5:	Transcript of audio tape Administrative Interview Trooper Prado
Petitioner's Exhibit #6:	Illinois State Police Code of Ethics
Petitioner's Exhibit #7:	Illinois State Police Rules of Conduct
Petitioner's Exhibit #8:	Withdrawn
Petitioner's Exhibit #9:	Trooper Prado's Report of Incident of 9/9/12
Petitioner's Exhibit #10:	Trooper Prado's Notes of Incident of 9/9/12

Petitioner's Exhibit #11:	Letter of Reprimand 9/18/12
Respondent's Exhibit #1:	E-mail Sgt Decatur to/from Sgt. Mollo
Respondent's Exhibit #2:	Personnel Early Warning System
Respondent's Exhibit #3:	Peer Support Program
Respondent's Exhibit #4:	Human Services Policy
Respondent's Exhibit #5:	Lt. Grendzinski's Memo
Respondent's Exhibit #6:	Dr. Radtke CV
Respondent's Exhibit #7:	Trooper Activity/Patrol
Respondent's Exhibit #8:	Illinois State Police Positive Counseling Memo

SUMMARY OF HEARING TESTIMONY

PETITIONER'S WITNESSES

Officer RICHARD AUSTIN of the Chicago Police Department Traffic Enforcement Division testified that he was working on patrol in uniform in a marked squad car on the Chicago Skyway during the early morning hours of September 9, 2012 (p.10).

He stated he was parked on the Skyway facing inbound near the toll plaza (p.12).

He testified further that he clocked the Respondent's vehicle going 76mph in a 45 mph zone and stopped the Respondent's vehicle (p.15).

The officer stated he approached the Respondent who was in a private car in civilian clothes and asked for his drivers license (p.15).

The driver (Respondent) "acted cocky, loud and full of himself" and showed the officer his Illinois State Police Identification (p.16).

Officer Austin also testified that upon stopping the Respondent he activated the in squad camera to record the video and audio of the stop per Chicago Police Department policy.

Officer Austin then identified and authenticated Petitioner's Exhibit #1 which is the video/audio tape of the Respondent and was played and received into evidence without objection.

The officer stated that during the course of the stop the Respondent was abusive, belligerent and repeatedly called him a "piece of shit" (p.18).

Officer Austin continued his testimony and stated the Respondent told him "if I wasn't wearing a uniform he would kick his ass" "beat the shit of out me" and "find out where I lived" (p.19).

The witness stated this was in response to him telling the Respondent he was only going to write a "blue card" which is a drivers information card.

On cross-examination the witness stated he initially told the Respondent he was not going to write him a speeding ticket just a blue information card but after the way the Respondent carried on he wrote him a speeding ticket and a ticket for disobeying a police officer because the Respondent would not listen to the officer and the Supervisor on the scene (Sgt Kinzie) and get in his car after being told repeatedly to do so (p.28-32).

Officer Austin stated it never entered his mind to file a felony complaint against the Respondent for felony intimidation (p.38).

SERGEANT JOEL DECATUR was called as a witness and testified he is assigned to the Division of Internal Affairs since 2009 and was assigned to investigate this case (p.41).

He stated he reviewed the in car videotape from the incident and ordered and obtained a transcript of the audio portion of the tape Petitioner's Exhibit #3 (p.41).

He further testified the transcript was a true and accurate transcript of the audio portion of the tape (p.42).

Sgt Decatur also conducted an administrative interview of the Respondent and identified Petitioner's Exhibit #4 as the audio recording and Petitioner's Exhibit #5 as the transcript of said administrative interview (p.45).

The witness also interviewed a MARIBEL SOLIS who was the passenger with the Respondent in the car at the time of the stop (p.47).

He stated he interviewed her on two (2) occasions to determine if she had taken a portable Breathalyzer test (PBT) at the time of the stop or earlier (p.47).

Finally Sgt Decatur testified he reviewed the administrative charges against Trooper Prado and they were consistent with what he found during his investigation (p.48).

On cross examination Sgt Decatur stated Ms. Solis never stated she blew into the PBT but Trooper Prado showed her the results of his PBT which was .056 (p.49).

BRIAN LEY, First Deputy Director of the Illinois State Police testified that all State Troopers have to follow the Illinois State Police Code of Ethics, also known as the "oath" (p.73) Petitioner's Exhibit #6.

He stated he is also familiar with the Illinois State Police Rules of Conduct which all troopers are required to follow (p.74) Petitioner's Exhibit #7 and Hearing Officer's Exhibit #2.

Deputy Director Ley testified that he reviewed the in car video (Petitioner's Exhibit #1) and transcript of the Respondent's Administrative Interview (Petitioner's Exhibits #4 and #5) as well as summaries of the two (2) interviews with Maribel Solis, the passenger in the Respondent's car (p.75).

He testified further it was his opinion that the Respondent violated the Code of Ethics and the Rules of Conduct of the Illinois State Police (p.75).

The witness stated further that in his opinion the Respondent committed felony intimidation as alleged in Count I when he threatened to inflict physical harm on Officer Austin by stating if he (Austin) was not in uniform he would beat the fuck out of him, beat his fucking ass and would find out where Officer Austin lives (p.77-78).

Deputy Director Ley stated further that those comments appear to be designed to expose or threaten to expose Officer Austin to hatred, contempt or ridicule (p.79) and were made to cause said officer to not write him a speeding ticket (p.79-80) as alleged in Count I.

The witness also testified further that based on his review of the evidence it was his opinion that the Respondent violated the specific Rules of Conduct as

alleged in Counts III through VII of the Complaint (Hearing Officer Exhibit #1) (p.80-83).

In addition the witness stated that based on his review of the investigative file the Respondent violated Count II of the Complaint as well (p.84).

Deputy Director Ley also testified that Counts I and II are Level 7 violations with a penalty up to termination on the discipline schedule (matrix) (p.85) and that he believes termination is appropriate in this case (p.85).

He stated that this particular video is one of the most disturbing he has ever seen as Trooper Prado verbally berated and abused a fellow officer (p.85).

On cross-examination Deputy Director Ley stated in recommending discipline they look at the severity of the misconduct and whether the alleged misconduct was on or off duty (p.89).

The witness in reviewing the investigative file was not aware of the fact that the Respondent participated in a Personnel Early Warning System (Respondent's Exhibit #2), a Peer Support Program (Respondent's Exhibit #3) or a Human Services Program (Respondent's Exhibit #4)(p.92-93).

The witness also stated those programs can be a form of mitigation but the Respondent's actions were so egregious so as not to be mitigating (p.95).

Finally the Deputy Director testified he was not aware of any Complaints from the public regarding the Respondent's behavior or temper (p.105).

MARIBEL SOLIS testified that she was with the Respondent Trooper

Prado in the early hours of September 9, 2012 (p.107).

She stated that she and the Respondent attended a concert at a casino in Hammond Indiana (p.108).

She testified she saw the Respondent drink beer at the casino but does not know how much, maybe a couple of drinks (P.109,111).

The witness testified further that she has used the Respondent's portable Breathalyzer on a number of occasions after being out (p.113).

She did not recall if she used Trooper Prado's PBT on the night of September 9, 2012 but does recall that the Respondent used the PBT in the parking lot before leaving the casino (p.116, 118).

The witness again stated she did not know how much the Respondent had to drink that night but seemed fine but acted like an idiot (p.123) and has "never seen him act like that, ever."(p.123).

On cross-examination Ms. Solis testified that she has driven with the Respondent many times and has never seen him lose his temper at another driver, has never lost his temper with her, and never saw that behavior from the Respondent before or after September 9, 2012 (p.128).

She also stated that the Respondent is not arrogant, is respectful and has a good reputation in the community (p.129).

Ms. Solis further stated the Respondent was embarrassed, regretted his actions, and did not understand why he flipped out that night (p.129).

MARIO MALLO testified he holds the rank of Sergeant in the Illinois State Police and is assigned to the Division of Internal Investigations (p.144).

He states he was assigned to the Prado investigation and interviewed Maribel Solis on two separate occasions (p.144-145).

He testified that during the second interview of Ms. Solis on November 1, 2012 she told him that she and the Respondent took breaths on Prado's PBT in the casino parking lot to determine who would drive home (p.145).

In addition he stated she told him (Mollo) at the second interview that she routinely blew into Prado's department issued PBT after a night of socialization (p.146).

On cross-examination Sgt Mallo testified that Ms. Solis during her first interview (10/11/12) saw the Respondent administer the PBT to himself on September 9, 2012 and remembers the results as .05 something (p.163).

The witness also stated that Ms. Solis did not recall during the second interview (11/1/12) if she took a breath on Prado's PBT at or before the traffic stop (p.164).

TROPPER MARCO PRADO, the Respondent was called to testify by the Petitioner and stated he is employed as a State Trooper by the Illinois State Police having graduated from the Academy in March 2011 (p.171).

He testified he understands he is required to follow the Code of Ethics, or "oath" and the Rules of Conduct of the State Police (p.173).

The Respondent stated on the night of September 12, 2012 he was off duty, in his personal car, in plain clothes with his girlfriend Maribel Solis. They went to a concert at Horseshoe Casino in Hammond Indiana (p.173) arriving around 11:00pm and during the course of the 90 minute concert had two (2) beers and a third beer in the casino after the concert for a total of three (3) beers that night (p.173,174,175,177).

Trooper Prado went on to say when he left the casino at about 2:30am he believed he was okay to drive, his judgment was not impaired and he took a breath sample on his state issued PBT which showed under .06 (p.177).

He testified he does not feel alcohol influenced his behavior in this incident (p.178).

Trooper Prado stated further that they travelled inbound on the skyway when he was stopped by Chicago Police Officer Austin for driving at 76mph in a 45mph zone (p.178).

The Respondent also testified that he reviewed the video/audio tape of the traffic stop (Petitioner's Exhibit #1) and it accurately depicted the events of that evening (p.179).

He admitted he violated various provisions of the Code of Ethics ("oath) on that day (p.179-180).

The Respondent upon further questioning and reviewing the video agreed and admitted-

- 1) His behavior reflected negatively on the State Police that day (p181)
- 2) He misused his PBT for its' intended purpose (p.181)

- 3) He engaged in obnoxious, offensive, unprofessional behavior not keeping with the highest standards of law enforcement (p.181)
- 4) He attempted to use his official position, official identification, and star to avoid a ticket for speeding (p.181)
- 5) He consumed alcohol while off duty to the extent it discredited himself and the Department (p.181)
- 6) He acted in an unreasonable manner so as to alarm or disturb another and provoke a breach of peace (p.182)
- 7) He told Officer Austin "if you were not in uniform I would beat the fuck out of you" (p.184)
- 8) He told Officer Austin he would beat his fucking ass right now if he was not in uniform (p.184)
- 9) He told Officer Austin he would find out where he lives (p.184).

The Respondent also testified he was aware it was illegal to threaten to inflict physical harm with intent to cause a person to not perform a particular act (p.184) and that threatening to beat the fuck out of Officer Austin was illegal (p.185).

The Respondent also admitted that he used his official position and official identification to avoid a citation for speeding (p.190). Trooper Prado also testified that he admitted at the administrative interview and statement to the Discipline Review Board that he used his badge to avoid the consequence of an illegal act (p.193).

On cross-examination the Respondent stated he became upset he was not given professional courtesy after he told the officer who he was (p.205-206) and his anger was not about the ticket but the fact he was not given respect he should have been given as a state trooper (p.208).

The witness stated it was his belief once he was pulled over and showed his credentials professional courtesy should have kicked in (p.206).

Trooper Prado testified further he continued to berate the Officer even though he was not going to get a ticket only a blue (information) card (p.207).

Trooper Prado admitted using his PBT, against policy, before he left the casino but denies ever giving Ms. Solis the PBT either at the casino or in his car at the traffic stop (p.208-211), but has used his state issued PBT on Ms. Solis more than once or twice on prior occasions (p.219).

RESPONDENT'S WITNESSES

MIGUEL MARIN testified on behalf of the Respondent and stated he is a close friend of the Respondent and has known him for over thirty (30) years (p.228).

Mr. Marin stated everyone in the neighborhood looks up to the Respondent, in thirty (30) years he has never seen the Respondent lose his temper or get into a fight and states the Respondent has a good reputation in the community for peacefulness (p.229-231).

On cross-examination the witness testified he never saw the video of the incident of September 9, 2012 and he has never seen Prado's behavior with alcohol (p.233).

TROOPER PRADO was again called to testify and stated he is not married and lives in Bridgeview. He has four (4) siblings and his parents are deceased (p.237-238).

He graduated from Argo High School and immediately went to college at UIC, dropped out of school to work to help the family, then went back to UIC and graduated in 2008 (p.240).

The Respondent testified he applied to various law enforcement agencies and was hired by the State Police in August of 2010 (p.242).

Trooper Prado identified Respondent's Exhibit #7, a Trooper Activity Record and stated that he has several DUI and criminal stop citation awards and in 2012 was leading his district in many categories (p.244-245).

The Respondent also identified Respondent's Exhibit #8 which is an Illinois State Police Counseling Memo which shows Trooper Prado was in the top 10 of activity leaders in four (4) separate categories (p.246).

The witness agreed that his behavior displayed in the video is deplorable (p.247).

Trooper Prado met with Lieutenant Grendzinski (Respondent's Exhibit #5) who gave him positive advice and feedback regarding his activity and this incident which resulted in him getting an action plan (p.249).

The witness stated further he was given a Magellan Program through the Personnel Early Warning System (Respondent's Exhibit #2) which included weekly one hour counseling sessions with superior officers, offered online courses, and a list of chaplains all designed to deal with stress (p.250).

He also entered a Peer Support Program and met several times with Lieutenant Vega to discuss pressures and stress on and off duty (p.251).

The Respondent, through the Employee Assistance Program (Respondent's Exhibit #4) has been meeting regularly with a clinical psychologist Dr. Radtke to identify what went wrong on September 9, 2012 (p.254-255).

Trooper Prado stated Mr. Radtke after viewing the video and meeting with the Respondent a number of times believes his conduct and outburst on the night of the incident could be alcohol related (p.256).

The witness testified further that Ms. Solis never took the PBT on the night of the incident, his conduct violated many of the Rules of Conduct, and acknowledged the video depicted what occurred and apologized for his actions (p.261).

On cross-examination the Respondent acknowledged he received a letter of reprimand nine days after this incident (on 9/18/12) for riding on the shoulder of I-55 (p.271-272).

A transcript of the hearing including the complete testimony of all witnesses and introduction of exhibits is attached hereto and made part of the record in this matter.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Count I – ROC-002, Paragraph III.A.I

"Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws, in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction."

Count I of the Complaint alleges Trooper Prado violated the provisions of the afore-stated Rule of Conduct at the traffic stop of September 9, 2012.

The Respondent is charged with having committed the offense of felony Intimidation with the intent to cause Officer Austin to omit the performance of an act, i.e. write a traffic ticket, by threatening to inflict physical harm on Officer Austin and find out where he lives.

On September 9, 2012, just after 3:00a.m., Trooper Prado, while off duty, driving his personal vehicle with his girlfriend Maribel Solis in the passenger seat was stopped by Officer Austin of the Chicago Police Department Traffic Enforcement Division while returning home from a show and casino in Indiana.

Officer Austin stopped the Respondent's vehicle inbound on the skyway for driving 76mph in a 45mph zone.

Officer Austin approached the Respondent's vehicle, asked for his license and the Respondent stated he was State Police and showed Austin his badge and identification card.

Officer Austin repeatedly asked for the Respondent's drivers' license and the Respondent replied that he always gives police officers breaks.

Officer Austin returned to his squad car, the Respondent followed him, started yelling, and the incident escalated.

Officer Austin told the Respondent the incident was being recorded and tried to explain he was not going to write the Respondent a ticket, only a blue information card which the Respondent did not seem to understand.

The Respondent continued yelling obscenities at the Officer, repeatedly called the officer a "piece of shit" and told him more than once that if he was not in uniform he would "beat the fuck out of him".

Trooper Prado threatened to find out where Austin lives and told him every Chicago Police Officer was going to suffer because of this stop.

The Respondent continued ranting at Officer Austin stating he (Austin) would get suspended if he wrote Trooper Prado a ticket and requested Officer Austin call his lieutenant to the scene to "tear him a new asshole".

Officer Austin asked the passenger Maribel Solis if the Respondent was okay and the Respondent wanted to take field sobriety tests and kept telling Austin he had taken a PBT and was less than .06.

The evidence in support of this Count is depicted in a compelling video/audio of the incident recorded by Officer Austin's in squad camera.

The video depicts an arrogant, condescending, intimidating, abusive Trooper Prado, totally out of control yelling a multitude of obscenities and threats without provocation toward Officer Austin because the Respondent felt he did not receive proper respect as a State Trooper during the traffic stop.

It is clear from a review of the record including the video that the Respondent's tirade and threats of physical harm were made with the intent to intimidate Officer Austin and not write Trooper Prado a traffic citation.

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has proven by a preponderance of the evidence that the Respondent violated Paragraph III.A.1. of the Rules of Conduct of the Illinois State Police and as alleged in Count I of the Complaint.

Count II – ROC-002, Paragraph III.A.41.C

"Officers are required to truthfully answer questions by, or render material and relevant statements to, competent authority in a Department personnel investigation when said officer is the subject of the investigation and has been advised of his/her statutory administrative proceedings rights if the allegation indicates that a recommendation for demotion, suspension or more than 15 days of discharge from the Department is probable."

Count II of the Complaint alleges Trooper Prado did not answer questions truthfully during his Administrative Interview regarding whether a breath test was administered to Maribel Solis on September 9, 2012.

The evidence and testimony as previously discussed including a review of the video/audio tape of the incident does not support this allegation.

Ms. Solis testified at the hearing she did not recall if she used Trooper Prado's portable breath test device on September 9, 2012, but admitted having done so on prior occasions. She felt confused and intimidated during the course of two (2) interviews by the State Police investigators trying to convince her that the video shows her taking a PBT test.

Trooper Prado was heard a number of times on the video of September 9, 2012 claiming he had given himself the PBT at the casino before driving and was less than .06. He does not make any statements on the video regarding whether Ms. Solis used the PBT.

At the hearing the Respondent again admitted using the PBT on September 9, 2012, but was adamant that he had not administered a PBT to Ms. Solis that night and she had not used the device on her own.

The Petitioner claims that the video depicts Ms. Solis leaning over, bending down, and pulling back in Trooper Prado's car at the traffic stop indicative of the use of a PBT.

A review of the video does not depict Ms. Solis using a PBT at the traffic stop.

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has not proven by a preponderance of the evidence that the Respondent violated Paragraph III.A.41.C of the Rules of Conduct of the Illinois State Police and as alleged in Count II of the Complaint.

Count III – ROC-002, Paragraph III.A.I

“Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.”

Count III of the Complaint alleges Trooper Prado violated the provisions of the afore-stated Rule of Conduct at the traffic stop of September 9, 2012 by disobeying direct orders from Officer Austin and Sergeant Kinzie who repeatedly told him to get back in his vehicle but refused and used a number of profanities and threats which resulted in obnoxious or offensive behavior which alarmed others.

The evidence and testimony as previously discussed including a review of the video/audio tape of the incident clearly supports this allegation.

The Respondent at his Administrative Interview admitted that he “knowingly acted in such a manner as to alarm or disturb another and to provoke a break of peace.”

He also admitted at the hearing that he engaged in obnoxious, offensive, unprofessional behavior and acted in an unreasonable manner so as to alarm or disturb another and provoke a breach of peace (p.181-182).

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has proven by a preponderance of the evidence that the Respondent violated Paragraph III.A.1. of the Rules of Conduct of the Illinois State Police and as alleged in Count III of the Complaint.

Count IV – ROC-002, Paragraph III.A.47.g.

"Officers will not consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty."

Count IV of the Complaint alleges Trooper Prado violated the provisions of the afore-stated Rule of Conduct on September 9, 2012 by consuming alcohol off duty which resulted in behavior at the traffic stop including yelling, the use of profanities and threats to Officer Austin, all of which discredited the Department.

The evidence and testimony as previously discussed including a review of the video/audio tape of the incident clearly supports this allegation. The Respondent in his Administrative Interview admitted he consumed alcohol that night.

The Respondent also admitted during his testimony at the hearing that he consumed alcohol while off duty to the extent it discredited himself and the Department (p.181).

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has proven by a preponderance of the evidence that the Respondent violated Paragraph III.A.47.g. of the Rules of Conduct of the Illinois State Police and as alleged in Count IV of the Complaint.

Count V – ROC-002, Paragraph III.A.14.c.

"Officers will not use their official position, official identification cards or stars for avoiding consequences of illegal acts."

Count V of the Complaint alleges Trooper Prado violated the provisions of the afore-stated Rules of Conduct at the traffic stop of September 9, 2012 by using his identification in effort to avoid a ticket.

The evidence and testimony as previously discussed including a review of the video/audio tape of the incident clearly supports this allegation.

Trooper Prado admitted in his Administrative Interview that he showed Chicago police Officer Austin his identification and badge when asked for his license. On the video the Respondent states when asked by Officer Austin for his drivers license, all he (Austin) needed to see was his badge.

In addition at the hearing the Respondent admitted he attempted to use his official position, official identification and star to avoid a ticket for speeding (p.181).

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has proven by a preponderance of the evidence that the Respondent violated Paragraph III.A.14.c. of the Rules of Conduct of the Illinois State Police and as alleged in Count V of the Complaint.

Count VI – ROC-002, Paragraph III.A.8.

“Officers will maintain a level of conduct in their personal and business affairs that is in keeping with the highest standards of the law enforcement profession. Officers will not participate in any conduct that impairs their ability to perform as law enforcement officers or causes the Department to be brought into disrepute.”

Count VI of the Complaint alleges Trooper Prado violated the provisions of the afore-stated Rules of Conduct at the traffic stop of September 9, 2012 in that his conduct brought the State Police into disrepute.

The evidence and testimony as previously discussed including a review of the video/audio tape of the incident clearly supports this allegation.

Trooper Prado admitted at the hearing that his behavior on September 9, 2012 reflected negatively on the Department that day (p.181) and that his

obnoxious, offensive, unprofessional conduct was not in keeping with the highest standards of law enforcement (p.181).

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has proven by a preponderance of the evidence that the Respondent violated Paragraph III.A.8. of the Rules of Conduct of the Illinois State Police and as alleged in Count VI of the Complaint.

Count VII – ROC-002, Paragraph III.A.38.

“Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order.”

Count VII of the Complaint alleges Trooper Prado violated the provisions of the afore-stated Rules of Conduct in that he used Department equipment (PBT) for other than its intended purposes by using it on himself and Maribel Solis.

The evidence and testimony as previously discussed including a review of the video/audio tape of the incident clearly supports this allegation.

Trooper Prado while ranting on video can be heard on a number of occasions telling Officer Austin he is a .056 BAC and inviting him to check the PBT.

In addition the Respondent admitted a number of times in his testimony at the hearing that he misused his PBT for its intended purposes on September 9, 2012 (p.181) and that he had Ms. Solis used it on prior occasions together but only he used it on the date of the incident.

Maribel Solis testified that she did not recall if she used the Respondent's PBT on September 9, 2012 (p.116-118) but has used the Respondent's PBT on a number of occasions after being out (p.113).

Based on the foregoing it is the finding of the undersigned Hearing Officer that the Petitioner has proven by a preponderance of the evidence that the Respondent violated Paragraph III.A.38. of the Rules of Conduct of the Illinois State Police and as alleged in Count VII of the Complaint.

DISCIPLINE

There are a number of factors in aggravation and mitigation to be considered when deciding the appropriate discipline in this matter.

The Petitioner is seeking the termination of Trooper Marco Prado as an Illinois State Trooper. The strength of their case is an unrebutted, uncontradicted, video/audio tape of the events involving the traffic stop of Trooper Prado by Chicago Police Officer Richard Austin for speeding on the Illinois/Indiana Skyway in the early morning hours of September 9, 2012.

The video tape as previously described is compelling and Trooper Prado's conduct very disturbing. The video tape of the incident depicts an arrogant,

obnoxious, abusive, immature, ill-tempered bully yelling obscenities and making threats to Officer Austin for almost a half hour.

Trooper Prado displays a sense of entitlement that he should receive preferential treatment because he is a state trooper when all he will give to Officer Austin is his identification and badge when repeatedly asked for his driver's license, and his comment about who he is and how he should be treated.

What is more alarming is his intimidating rant threatening to inflict bodily harm on Officer Austin by telling him if he was not in uniform he would beat the fuck out of him and telling him he would find out where he lives.

Deputy Director Brian Ley, second in charge of the State Police, described the video as "one of the most disturbing videos I have ever seen of the actions of one of our officers" and that his conduct was an "embarrassment to the uniform" and the only appropriate discipline in this matter was termination.

The Respondent's position is that the appropriate discipline should be a suspension rather than termination. Unlike the video, the Respondent was contrite and remorseful after the incident and has accepted responsibility for his conduct and admitted that he violated the Code of Ethics and Rules of Conduct as previously discussed.

The Respondent claims his conduct was a one time loss of control, and totally out of character. He stated he has not had any problems on duty while dealing with the public on a daily basis. Lieutenant Grendzinski, the Respondent's lieutenant reviewed a number of events on randomly selected DVDs depicting multiple traffic stops and events involving Trooper Prado. In the

videos he reviewed the Respondent was "respectful, professional and...did not lose control of his temper".

Maribel Solis, the Respondent's girlfriend claimed he did not have anger issues in his personal life and never saw him lose his temper before or after September 9, 2012.

Trooper Prado sought help to address his situation through various programs provided by the State Police including a Personnel Early Warning System, a Peer Support Program, and a Human Services Program.

The Respondent was also referred to counseling and has been attending regular sessions with a psychologist, Dr. Radtke, since the spring of 2013 in an effort to identify and treat any issues the Respondent may have. She believes that alcohol was a significant contributing factor in Trooper Prado's behavior on September 9, 2012.

Finally the Respondent submitted a number of cases (18) summarized in Respondent's Brief in mitigation that address discipline received by other State Police officers involving acts of misconduct. Some of the cases involve first offenders, others involve the use of alcohol, and some involve misconduct while off duty. All the cases resulted in carrying degrees of discipline short of termination.

RECOMMENDATION

The appropriate sanctions and penalty in this matter is solely within the purview and discretion of the Illinois State Police Merit Board. This issue is therefore properly left for the review, discussion and decision of the Merit Board.

By: Terry C Chiganos
Terry C Chiganos
Hearing Officer
Illinois State Police Merit Board

Dated this 19th day of AUGUST, 2014.

RECEIVED

MAR 08 2013

ILLINOIS STATE POLICE
MERIT BOARD

STATE OF ILLINOIS
ILLINOIS STATE POLICE MERIT BOARD

IN THE MATTER OF:

TROOPER MARCO A. PRADO
I.D. No. 6228



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)

Illinois State Police
Merit Board No.

COMPLAINT

NOW COMES Hiram Grau, Director of the Illinois State Police, and pursuant to 20 ILCS 2610/14 and 80 Ill. Admin. Code § 150.575 states as follows:

COUNT I

VIOLATION OF STATE LAW – INTIMIDATION

1. Marco A. Prado (Respondent) is employed as a State Police Officer by the Illinois State Police (Department) and holds the rank of Trooper. At all times relevant to this Complaint, Respondent was assigned to District Chicago. Respondent has been employed by the Department since September 26, 2010.
2. On September 9, 2012, at 3:18 a.m., while off-duty and driving his personal vehicle, Respondent was stopped by Officer Austin of the Chicago Police Department (CPD) for speeding on the Skyway/Toll Road in Chicago, Illinois.
3. Respondent was stopped by Officer Austin for driving 76 mph in a 45 mph zone.
4. Respondent was returning from a casino in Indiana when he was stopped by Officer Austin.

5. Rather than pulling over to the shoulder, Respondent stopped his vehicle in an open and active toll lane of the toll plaza. After vacillating between lanes, Respondent ultimately stopped his vehicle in a closed lane, in between two active lanes.
6. Officer Austin requested Respondent's license, and Respondent responded by stating that he was State Police and showed Officer Austin his badge and identification card.
7. Officer Austin requested Respondent's driver's license again, and Respondent responded that he gives "all you guys" breaks. (Ex. 1)
8. Officer Austin stated in his interview with Division of Internal Investigation (DII) Agents that Respondent was becoming more arrogant; therefore, Officer Austin told Respondent to calm down and he could walk back to Officer Austin's squad car when he was ready to give Officer Austin his driver's license.
9. Officer Austin returned to his squad car to fill out a "blue card" (Traffic Stop Statistical Study) and waited for Respondent.
10. Respondent exited his vehicle and approached Officer Austin's car. Respondent began yelling at Officer Austin and told him that he never has taken a license from a CPD officer on a traffic stop. Respondent told Officer Austin to come back to Respondent's car to retrieve his license.
11. Respondent was informed that he was being recorded and Respondent went back to his car; Officer Austin followed and retrieved Respondent's license.
12. Officer Austin attempted to explain to Respondent that he was only going to fill out a blue card and not write Respondent a ticket.

13. Respondent repeatedly interrupted Officer Austin and stated multiple times that he is a State Trooper.
14. Respondent started yelling at Officer Austin and requested Officer Austin call his Lieutenant so he could come out there and "tear him a new asshole." (Ex. 1)
15. Respondent continued to yell and became belligerent with Officer Austin.
16. Officer Austin asked Respondent's passenger, Maribel Solis, if Respondent was okay to drive, and Respondent interrupted and told Officer Austin to put him through field sobriety tests. Respondent advised that he had his Department issued PBT (Preliminary Breath Tester) with him.
17. Respondent stated to Officer Austin that he had used his PBT on himself and proceeded to show Officer Austin the PBT.
18. Once Officer Austin returned to his squad car to complete the blue card, Respondent exited his vehicle and approached Officer Austin's vehicle and again began yelling at Officer Austin.
19. Respondent told Officer Austin that if he was not in uniform he would "beat the fuck out of him" and that Officer Austin was "a piece of shit." (Ex. 1)
20. Respondent continued to yell at Officer Austin and threatened Officer Austin that he would find out where Officer Austin lives.
21. Respondent continued in this manner and told Officer Austin that every CPD Officer is going to suffer because of Officer Austin's actions.
22. Respondent further threatened that if Officer Austin wrote Respondent a ticket, Officer Austin would get suspended.

23. Respondent continued yelling and told Officer Austin that "he better not" write Respondent a ticket.
24. Respondent would not stay in his vehicle and walked back and forth through active lanes of traffic while yelling profanities and threatening Officer Austin.
25. Officer Austin asked Respondent multiple times to return to his vehicle, and he refused.
26. Additionally, Respondent threatened to drive off from the traffic stop.
27. CPD Sergeant Scott Kinzie arrived on the scene to assist Officer Austin. Respondent disobeyed Sergeant Kinzie's orders to get back in his car and continued yelling obscenities.
28. Sergeant Kinzie stated in his interview with DII Agents that a Chicago Skyway maintenance truck had to partially block the I-Pass lanes with activated emergency lights for additional lighting and safety reasons because Respondent was in the roadway.
29. The video recording of the traffic stop was approximately 36 (thirty-six) minutes in length and captured Respondent threatening Officer Austin and yelling obscenities at both Officer Austin and Sergeant Kinzie.
30. After the traffic stop, Respondent travelled to Chicago Police Department 3rd District to post bond.
31. Once at the 3rd District Respondent requested an "I-Bond"; that request was denied and Respondent continued to threaten that he would write every CPD Officer tickets.
32. Respondent was asked to leave the 3rd District once his business was concluded, and he refused.

33. Sergeant Kinzie informed Respondent that if he did not leave the 3rd District, he would be arrested for Criminal Trespass. At that point, Respondent left.
34. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.1., which states:

"Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction."

(First Offense – Level 7 Misconduct: Up to Termination)

Respondent violated this rule in that on September 9, 2012, he committed the offense of Intimidation, in violation of 720 ILCS 5/12-6(a)(1), a felony, when Respondent, with the intent to cause Officer Austin to perform or to omit the performance of any act, communicated a threat to Officer Austin to inflict physical harm. Respondent threatened to find out where Officer Austin lived and told Officer Austin that if he was not in uniform Respondent would "beat the fuck out of him."

COUNT II

FAILURE TO TRUTHFULLY ANSWER QUESTIONS

35. Paragraphs 1. - 33. of this Complaint are incorporated as if restated fully herein.
36. The passenger in Respondent's car, Maribel Solis, was interviewed by DII Agents on November 1, 2012.

37. Ms. Solis stated that she used Respondent's PBT on September 9, 2012. Ms. Solis stated that both she and Respondent used the PBT to determine who would drive home that night.
38. Ms. Solis further stated that she has "routinely" used Respondent's PBT after a night of "socialization."
39. On November 1, 2012, Respondent was administratively interviewed by DII Special Agent Decatur and Master Sergeant Smith.
40. Respondent was advised of his statutory administrative proceeding rights by Special Agent Decatur.
41. Respondent was asked if his Department issued PBT was administered to Ms. Solis on September 9, 2012, to which Respondent responded that his PBT had not been administered to Ms. Solis.
42. Respondent was asked several times if Ms. Solis was administered on September 9, 2012, a PBT, and Respondent denied it every time.
43. Respondent was also asked if his Department issued PBT was administered to Ms. Solis, and Respondent denied ever using his PBT on Ms. Solis.
44. All or a portion of the facts set forth herein constitute Respondent's violation of Departmental Directive ROC-002, Rules of Conduct, Paragraph III.A.41.c., which states:

"Officers are required to truthfully answer questions by, or render material and relevant statements to, competent authority in a Department personnel investigation when said officer is the subject of the investigation and has been advised of his/her statutory administrative proceedings rights if the allegation

indicates that a recommendation for demotion, suspension of more than 15 days or discharge from the Department is probable.”

(First Offense – Level 7 Misconduct: Up to Termination)

Respondent violated this rule in that on November 1, 2012, when interviewed by Special Agent Decatur and Master Sergeant Smith, Respondent denied repeatedly that he used his Department issued PBT to administer a breath test to Maribel Solis. Maribel Solis admitted to DII Agents that she was administered a breath test with Respondent’s Department issued PBT on September 9, 2012, and has utilized the PBT before.

COUNT III

VIOLATION OF STATE LAW – DISORDERLY CONDUCT

45. Paragraphs 1. - 33. of this Complaint are incorporated as if restated fully herein.
46. During the traffic stop, Respondent was out of his vehicle and walked back and forth through active lanes of traffic while yelling profanities and threats.
47. Respondent then disobeyed direct orders of Officer Austin to get back into his vehicle, responding, “I’m not gonna do shit. I’m gonna stand right here. I could do whatever the fuck I want.” (Ex. 1)
48. Further, Respondent disobeyed the orders of Sergeant Kinzie when he arrived at the scene.
49. In Respondent’s administrative interview, Respondent admitted that his behavior at the traffic stop was obnoxious or offensive and alarming to others.
50. Respondent was asked the following:

Special Agent Decatur: "Did you knowingly act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of peace?"

Respondent: "Yes, sir, absolutely."

(Tr. at 19)

51. Respondent stopped his vehicle in a closed toll lane and in Officer Austin's video of the traffic stop, active lanes of traffic can be seen in the toll plaza to both the left and the right of Respondent's vehicle. Additionally, Respondent can be seen walking to the left of his vehicle into the active lane.
52. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.1., which states:

"Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction."

(First Offense – Level 4 Misconduct: 31-45 Days)

Respondent violated this rule in that on September 9, 2012, he committed the offense of Disorderly Conduct, in violation of 720 ILCS 5/26-1(a)(1), a misdemeanor, when Respondent knowingly acted in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace, which Respondent admitted in his administrative interview.

COUNT IV

CONSUMPTION OF ALCOHOL RESULTING IN INTOXICATION THAT

DISCREDITS RESPONDENT OR THE DEPARTMENT

53. Paragraphs 1. – 33. of this Complaint are incorporated as if restated fully herein.
54. Respondent admitted in his administrative interview that on September 9, 2012, he was off-duty and consumed alcohol.
55. Respondent also told Officer Austin, during the traffic stop, several times that he was a member of the Illinois State Police and showed Officer Austin his badge.
56. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.47.g., which states:

“Officers will not consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty.”

(First Offense – Level 3 Misconduct: 15-30 Days)

Respondent violated this rule in that on September 9, 2012; he consumed alcoholic beverages, while off-duty, to the extent that his behavior discredited the Department through his actions during a traffic stop, including threatening Officer Austin and yelling profanities at CPD Officer Austin and CPD Sergeant Kinzie.

COUNT V

USE OF OFFICIAL IDENTIFICATION CARDS TO AVOID CONSEQUENCES

57. Paragraphs 1. – 33. of this Complaint are incorporated as if restated fully herein.
58. During the traffic stop, when asked for his driver's license, Respondent told Officer Austin that all Officer Austin needed to see was Respondent's badge.
59. Respondent admitted in his administrative interview that he attempted to use his position as an Illinois State Trooper to avoid receiving a ticket from Officer Austin.
60. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.14.c., which states:

“Officers will not use their official position, official identification cards or stars for avoiding consequences of illegal acts.”

(First Offense – Level 2 Misconduct: 4-10 days)

Respondent violated this rule when he showed Officer Austin his badge and identification card when asked for his driver's license. Respondent told Officer Austin multiple times that he was with the Illinois State Police to avoid receiving a ticket.

COUNT VI

BRINGING THE DEPARTMENT INTO DISREPUTE

61. Paragraphs 1. - 33. of this Complaint are incorporated as if restated fully herein.
62. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.8., which states:

“Officers will maintain a level of conduct in their personal and business affairs that is in keeping with the highest standards of the law enforcement profession.

Officers will not participate in any conduct that impairs their ability to perform as law enforcement officers or causes the Department to be brought into disrepute.”

(First Offense – Level 2 Misconduct: 4-10 days)

Respondent violated this rule when he threatened and yelled profanities at Officer Austin while stating that he was an Illinois State Police Officer.

COUNT VII

FAILURE TO UTILIZE DEPARTMENT EQUIPMENT FOR ITS INTENDED USE

63. Paragraphs 1. - 33. of this Complaint are incorporated as if restated fully herein.
64. All or a portion of the facts set forth herein constitute Respondent’s violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.38., which states:

“Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order.”

(First Offense – Level 1 Misconduct: Reprimand up to 3 days)

Respondent violated this rule in that while Respondent was off-duty he used his Department issued PBT to self-administer a test to himself and Maribel Solis on September 9, 2012, and on previous occasions. In addition, Respondent transported his Department issued PBT in his personal vehicle from Illinois into Indiana.

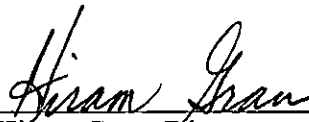
CERTIFICATION

A copy of Illinois State Police Department Directive ROC-002, Rules of Conduct, is attached and is certified by the Director as accurate, complete, and in full force and effect at the time the aforementioned acts were committed.

CONCLUSION

WHEREFORE, by reason of these facts and charges, I request the Illinois State Police Merit Board conduct a hearing in this matter and terminate Respondent from employment with the Illinois State Police.

Respectfully submitted,



Hiram Grau, Director

Illinois State Police
801 South Seventh Street, Suite 1100-S
Springfield, Illinois 62703